

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

IN RE: 4709 INCOPORATED, DBA MIDTOWN LIVE SPORTS CAFE Debtor.	§ § § §	CASE NO. 19-10624-TMD CHAPTER 11
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**MOTION TO EXPEDITE HEARING ON MOTION OF THE UNITED STATES
TRUSTEE TO DISMISS CASE OR, IN THE ALTERNATIVE, TO CONVERT CASE TO A
CASE UNDER CHAPTER 7**

TO THE HONORABLE TONY M. DAVIS, U.S. BANKRUPTCY JUDGE:

COMES NOW, HENRY G. HOBBS, JR, THE ACTING UNITED STATES TRUSTEE for Region 7 (the “UST”), through the undersigned counsel, and files this *Motion to Expedite Hearing on Motion to Dismiss, or, in the Alternative, to Convert Case to a Case Under Chapter 7*, and in support thereof, respectfully shows the Court as follows:

1. 4709 Incorporated dba Midtown Live Sports Cafe (“Debtor”) filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code on May 14, 2019. No trustee, examiner, or creditors committee were appointed in this case.
2. Cause exists to dismiss or convert this case pursuant to 11 U.S.C. § 1112(b)(4)(F) for Debtor’s unexcused failure to satisfy timely its filing requirements under the Bankruptcy Code and Bankruptcy Rules. Debtor has not filed the schedules or statements required by 11 U.S.C. § 521. Bankruptcy Rule 1007(c) requires the filing of such documents with the petition or within 14 days thereafter. Counsel for the UST sent an email to Debtor’s counsel on May 15, 2019, informing him that the UST planned to file a motion to dismiss the case if Debtor failed to file the documents set forth in Rule 1007(c) as well as a board of directors’ resolution authorizing the bankruptcy case by the deadline

under Bankruptcy Rule 1007. The UST never received a response from Debtor's counsel. Debtor moved to extend time to file schedules and required forms on May 27, 2019, requesting an extension of time until May 30, 2019, at 5:00 pm. Debtor failed to file the required documents by the extended deadlines, and still has not filed the required documents. As Debtor failed to provide any excuse as to why Debtor did not satisfy timely the filing requirement under Bankruptcy Rule 1007(c), this case should be dismissed.

3. The UST requests an expedited hearing date of June 13, 2019 at 1:30 pm on the Motion to Dismiss, or, in the Alternative, to Convert Case to a Case Under Chapter 7. Cause exists for an expedited hearing as Debtor has not established that it is properly authorized to be in bankruptcy, and delay in dismissal of the case may cause harm to the estate and creditors. All parties were provided an opportunity to confer at the status conference, and no party objected to an expedited hearing.

WHEREFORE, PREMISES CONSIDERED, the United States Trustee prays that the Court expedite consideration of the Motion to reopen this case and grant such other and further relief to which the United States Trustee may justly be entitled.

Dated: June 3, 2019

Respectfully submitted,

HENRY G. HOBBS, JR.
Acting United States Trustee Region 7
Southern and Western Districts of Texas

By: /s/ Shane P. Tobin
Shane P. Tobin
Trial Attorney
CA State Bar No. 317282
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Austin, Texas 78701
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Shane.P.Tobin@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that I forwarded a true and correct copy of the foregoing United States Trustee *Motion to Expedite Hearing on Motion to Dismiss, or, in the Alternative, to Convert Case to a Case Under Chapter 7* and proposed order by prepaid first class mail and/or by electronic means for all Pacer system participants to the parties listed on Debtor's Mailing Matrix on this the 3rd day of June, 2019.

/s/ Shane P. Tobin
Shane P. Tobin

Label Matrix for local noticing
0542-1
Case 19-10624-tmd
Western District of Texas
Austin
Mon Jun 3 15:10:01 CDT 2019

4709 Incorporated dba Midtown Live
13276 N Hwy 183 #208
Austin, TX 78750-3241

United States Trustee (SMG111)
United States Trustee
903 San Jacinto Blvd, Suite 230
Austin, TX 78701-2450

U.S. BANKRUPTCY COURT
903 SAN JACINTO, SUITE 322
AUSTIN, TX 78701-2450

Comptroller of Public Accounts
111 East 17th Street
Austin, Texas

FNA 2018-1, LLC
7200 North MoPac Expressway
Suite 100
Austin, TX 78731

FNA 2018-1, LLC
c/o Douglas J. Powell
820 West 10th Street
Austin, TX 78701-2065

FNA DZ LLC
7200 MoPac Expressway, Suite 100
Austin, TX 78731

Internal Revenue Service
Austin, Texas 77330

Kathin Salon
1626 Ohlen Road
Austin, TX 78758-7120

Shane P. Tobin
903 San Jacinto Ave, Rm. 230
Austin, TX 78701-2450

TX State Comptroller
c/o E. Stuart Phillips
Bankruptcy & Collections Division MC 008
PO Box 12548
Austin, TX 78711 2548

Travis County
c/o Jason A. Starks
P.O. Box 1748
Austin, TX 78767-1748

U. S. International
500 East Anderson Lane
Austin, TX 78752-1228

United States Trustee
903 San Jacinto Blvd., Room 230
Austin, TX 78701-2450

United States Trustee - AU12
United States Trustee
903 San Jacinto Blvd, Suite 230
Austin, TX 78701-2450

Darwin McKee
Darwin McKee, Attorney at Law
314 East Highland Mall Boulevard
Suite 305
Austin, TX 78752-3731

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(d)FNA 2018-1, LLC
c/o Douglas J. Powell
820 West 10th Street
Austin, TX 78701-2065

(u)Waste Management
106 East 6th Street

End of Label Matrix
Mailable recipients 16
Bypassed recipients 2
Total 18

**IN THE UNITED STATES BANKRUPTCY COURT
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ORDER EXPEDITING HEARING

Came on for consideration the United States Trustee's Motion to Expedite Hearing on The United States Trustee's Motion to Dismiss, or, in the Alternative, to Convert Case to a Case Under Chapter 7. The Court finds that the Motion has merit, and it is therefore

ORDERED that the hearing on the Motion to Reopen Case shall be held in Courtroom No. 2, 903 San Jacinto Blvd., Austin, TX 78701 on June 13, 2019 at 1:30pm. The United States Trustee will provide notice of the expedited hearing.

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Order prepared and submitted by:
Shane P. Tobin, Office of the U.S. Trustee, 903 San Jacinto Blvd., Rm. 230, Austin, TX 78701